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EXAMINER

NGUYEN, NAM V

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| ART UNIT | PAPER NUMBER |
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2612

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,538

Applicant(s)

MOODY ET AL.

Examiner

Nam V. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's response to an Amendment which is filed June 21, 2006.

An amendment to the claims 1 and 6 has been entered and made of record.

Claims 1-15 are pending.

Response to Arguments

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "Apparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). The newly add limitation contains "to create a wireless access point/wireless device association for said transponder" does not structurally distinguishable from a prior art apparatus.

Applicant's arguments are substantively the same as those considered during the pre-brief appeal conference. Applicant's amendments and arguments to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C § 103 as discussed below. Applicant's amendment and argument with respect to the pending claims 1-15, filed June 21, 2006, have been fully considered but they are not persuasive for at least the following reasons.

On pages 7 to 9, Applicant's arguments with respect to the invention in Meier in view of Flach et al. does not teach or suggest all the claims in the application is not persuasive. The claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

It is, once again, Meier discloses an IP Terminal(s) 104 or 415 in a wide area network (WAN). As shown in Figure 1, the protocol of an enterprise network 100 is an open wireless local area (OWL) network protocols which support a variety of features which enhance mobile or portable terminals mobility (column 3 line 20 to column 4 line 26; see Figures 1 to 3). Furthermore, Meier discloses a mobile IP terminal 415 has roamed from its home subnet, subnet 411, to an access point (AP) 403 on a subnet 412. The mobile IP terminal 401 may be any device which contains a radio transceiver such as a portable computing device, a code reader, a printer, digital camera, RF TAG, etc. An AP 401 serves as the OWL root node. An AP 402 is the designated AP for the secondary LAN which is the subnet 412. The AP 402 is attached to the AP

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401 through an IP tunnel 421. The AP 403 is attached to the AP 402 through an Ethernet link 425. Note that the physical path for the IP tunnel 421 between the AP 401 and the AP 402 is through an IP router 423. The IP router 423 has two ports, port 431 attaches to the subnet 411 while port 432 attaches to the subnet 412. The IP address for port 431 identifies subnet 411, while the IP address for port 432 identifies the subnet 412. The subnet 411 is the primary OWL LAN. Clearly, an IP Terminal 104 or 415 for associating with a respective wireless access points of a standard data network. These terminals capable of transmitting identification information corresponding to said transponder in accordance with a wireless network protocol to create a wireless premises based wireless network having a multi-segment of a plurality of wireless access points.

Furthermore, a transponder is defined in Merriam-Webster's Collegiate Dictionary as "a radio or radar set that upon receiving a designated signal emits a radio signal of its own and that is used esp. for the detection, identification, and location of objects". Meier discloses a mobile IP terminal 415 may be any device which contains a radio transceiver such as a portable computing device, a code reader, a printer, digital camera, RF TAG (column 8 lines 23 to 41; see Figure 4). Clearly, The IP terminal 104 or 415 is a transponder and an IP terminal (i.e. a transponder) communicates with a standard wireless LAN protocol bidirectional.

Flach et al. disclose that a single frame of the wireless TDMA protocol used between the remote telemeters 102 and the VCELLs 106. The frame repeats every 5 milliseconds, and consists of seven timeslots: a 740 microsecond VC->R (VCELL to remote telemeter) timeslot

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and six 710 microsecond R->VC (remote telemeter to VCELL) timeslots. The VC ->R timeslots are used to broadcast information to the remote telemeters 102. All VCELLs of the system are synchronized, and thus transmit at the same time. The R->VC timeslots are assigned by the VCELLs 106 to individual telemeters 102, and are used to transfer information from the assigned telemeters to the VCELLs. All timeslots terminate with a 10 microsecond dead period, which is sufficient to allow the devices to switch between transmit and receive modes (column 13 line 3 to 19; see Figures 1 to 8). The VCELLs broadcast respective control messages to the remote telemeters 102 and the command may be send, for example, to instruct a telemeter to take a blood pressure reading, or to enter into special mode of operation. Whenever a change occurs in the closest VCELL, the telemeter transmits the ID of the new VCELL to the hospital LAN 116. The monitoring stations 120 use this information to keep track of the locations of the patients of the system. In other embodiments of the invention, patient location may be accomplished by having the VCELLs periodically attach VCELL identification codes to the data packets received from the remote telemeters 102 (column 13 line 45 to column 14 line 36; see Figure 1 and 8). Clearly, Flach et al. disclose a remote telemeters transmits a signal in accordance with a wireless network protocol in Claims 1 and 6.

Furthermore, Flach et al. disclose that a single frame of the wireless TDMA protocol used between the remote telemeters 102 and the VCELLs 106 (column 13 line 4; see Figure 8) and Flach et al. disclose an alternative LAN protocols which could be used include ATM and FDDI and others (column 7 lines 12 to 28; see Figures 1 and 3) and a VCELL wireless protocol

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(column 14 lines 45 to 62; see Figures 9-10). Clearly, the wireless TDMA protocol and others are a wireless network protocol.

Therefore, the current grounds of rejection are all clearly not in error and answer the explicit recitations of the claims. The examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659).

Referring to claim 1, Meier discloses a transponder (i.e. a radio transceiver such as RF TAG) (column 1 line 66 to column 2 line 16; see Figures 1, 4 and 9) including

Means for associating said transponder with a device (415) (i.e. an IP terminal) (column 8 lines 23 to 41; see Figures 4 and 9);

Means for associating said transponder (i.e. a radio transceiver such as RF TAG) with respective wireless access points (401 to 403) (i.e. Access Point #1 to Access Point #3) of a

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standard data network (100) (i.e. an enterprise network includes a LAN) (column 3 lines 20 to 45; column 8 lines 23 to 59; see Figures 1-9).

However, Meier did not explicitly disclose that means, responsive to said receiving of said interrogation signal, for transmitting a signal in accordance with a wireless network protocol that can be received by an access point of said standard data network and interpreted by an access point of said standard data network as identification information.

In the same field of endeavor of wireless network communication system, Flach et al. teach that that means (102A) (i.e. a wireless remote telemeter), responsive to said receiving of said interrogation signal, for transmitting a signal (i.e. a data packet) in accordance with a wireless network protocol (i.e. a wireless TDMA communication protocol) (column 6 lines 24 to column 7 line 28; column 13 lines 5 to 44; see Figures 1-4 and 8) that can be received by an access point (106) (i.e. a ceiling-mounted transceiver or VCELL) of said standard data network (116) (i.e. a LAN) and interpreted by an access point (106) of said standard data network (116) as identification information (column 7 lines 12 to 57; column 10 lines 17 to 38; see Figures 1, 3 and 5A) in order to facilitate the efficient and reliable exchange of information between portable wireless devices and centralized monitoring stations.

One of ordinary skilled in the art recognizes the need to have a wireless remote telemeter transmits a patient data information to a ceiling-mounted transceiver of a LAN using a wireless TDMA communication protocol of Flach et al. in a wireless network having a plurality of wireless access points of Meier because Meier suggests it is desired to provide a mobile IP terminal contains a RF tag to communicate with a plurality of access points in a LAN using an open wireless local area network protocols (column 3 line 20 to 45; column 8 lines 23 to 41; see

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Figures 4 and 9) and Flach et al. teach that a wireless remote telemeter transmits a patient data to a ceiling-mounted transceiver using a wireless TDMA protocols (column 6 lines 24 to column 7 line 28) in order to enhance reliability of the communication in a LAN. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to have a wireless remote telemeter transmits a patient data information to a ceiling-mounted transceiver of a LAN using a wireless TDMA communication protocol of Flach et al. in a wireless network having a plurality of wireless access points of Meier with the motivation for doing so would have been to provide a wireless network monitoring system to facilitate the efficient and reliable exchange of information between portable wireless devices and centralized monitoring stations.

Referring to claim 2, Meier in view of Flach et al. disclose a transponder as recited in claim 1, Flach et al. disclose further including a memory (406) and wherein said means (102A) for transmitting a signal includes means (408) (i.e. an antenna) for transmitting signals representing data (i.e. data information) stored in said memory (406) (column 9 line 40 to column 10 line 14; see Figure 4).

Referring to claims 3-4, Meier in view of Flach et al. disclose a transponder as recited in claim 1, Flach et al. disclose further including means (402) (i.e. a sensor circuitry) for sensing a condition of said device (102A) (column 9 line 40 to 47; see Figure 4).

Referring to claim 15, Meier in view of Flach et al. disclose a transponder as recited in claim 1, Flach et al. disclose wherein said means (102A) for receiving an interrogation signal

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(i.e. a control signal) includes means (408) for receiving an interrogation signal from an access point (106) of said standard wireless data network (100) (column 13 line 5 to column 14 line 44; see Figures 8 and 10).

Referring to claim 6, Meier in view of Flach et al. disclose an asset tracking system, to the extent as claimed with respect to claim 1 above, Flach et al. disclose the system including further means (102A) (i.e. a wireless remote telemeter) for accessing and reporting through said computer network internal network (116) (i.e. a LAN) wireless access point/wireless device (106) associations including said wireless access point/wireless device association for said transponder from said wireless access points (106) (i.e. a ceiling-mounted transceiver or VCELL) (column 7 lines 12 to 57; column 10 lines 17 to 38; see Figures 1, 3 and 5A).

Referring to claims 7-8, Meier in view of Flach et al. disclose a system as recited in claim 6, Flach et al. disclose further including means (112) (i.e. concentrator) for associating internal network access point information with geographical locations (column 7 line 12 to 57; column 13 line 61 to column 14 line 22; see Figures 1, 3 and 8).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,594,659) as applied to claim 2 above, and in further view of Welles, II et al. (US# 5,691,980).

Referring to claim 5, Meier in view of Flach et al. disclose a system as recited in claim 2, however, Meier in view of Flach et al. did not explicitly disclose means for controlling said device in response to said interrogation signal or a signal associated with said interrogation signal.

In the same field of endeavor of wireless communication system, Welles, II et al. teach that means (58) (i.e. a tracking unit controller) for controlling said device (10A) (i.e. a mobile tracking unit) in response to said interrogation signal (column 1 line 47 to column 2 line 16; column 5 lines 4 to 38; see Figures 1 and 2) in order to transmit the condition of temperature or pressure of the unit to the central station.

One of ordinary skilled in the art recognizes the need to a responsive to a detected change of condition of Welles, II et al. in location tracking and monitoring devices of Meier in view of Flach et al. because Flach et al. suggest it is desired to provide a physiologic data collected from a patient is made available for monitoring on a LAN (column 6 line 24 to 55) and Welles, II et al. teach that a tracking unit with sensor devices to communicate the messages and commands with the central station (column 4 lines 1 to 16) in order to enhance reliability of the communication. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to add sensors in the tracking units and a responsive to a detected change of condition of Welles, II et al. in a location tracking and monitoring devices of Meier in view of Flach et al. with the motivation for doing so would have been to provide the tracking asset and control system has the capability to independently determine and report the status of location tracking and monitoring devices remotely from a central monitoring station in a wireless LAN system.

Claims 9-10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659) as applied to claim 6 above, and in further view of Stewart (US# 5,835,061).

Referring to claim 9, Meier in view of Flach et al. disclose a system as recited in claim 6, however, Meier in view of Flach et al. did not explicitly disclose further including means for determining proximity of said transponder to an access point.

In the same field of endeavor of communication service system, Stewart teaches that means for determining proximity of said transponder (5) (i.e. mobile unit) to an access point (10) (column 3 line 64 to column 4 line 7; see Figures 1-2) in order to send or to receive information which may include text, voice data and video data.

One of ordinary skilled in the art recognizes using an access point to determine a mobile unit is within the range of the access point of Stewart in a real time patient monitoring wireless LAN system of Meier in view of Flach et al. because Flach et al. suggest it is desired to provide a wireless remote telemeters to be worn on a patient can be monitoring or tracking by a plurality of ceiling-mounted transceivers in a LAN (column 6 line 24 to 55) and Stewart teaches that means for determining proximity of said a mobile unit to an access point (column 3 line 64 to column 4 line 7; see Figures 1-2) in order to increase efficiently and to enhance reliability of the communication of an access point. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to use an access point to determine a mobile unit is within the range of the access point of Stewart in a real time patient monitoring

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wireless LAN system of Meier in view of Flach et al. with the motivation for doing so would have been to provide the tracking asset system has the capability to independently determine and report the status of the tag remotely from a central station.

Referring to claim 10, Meier in view of Flach et al. and in view of Stewart disclose a system as recited in claim 9 above, Stewart disclose wherein said means for determining proximity includes triangulation means (column 6 lines 20 to 26).

Referring to claims 13 and 14, Meier in view of Flach et al. and in view of Stewart disclose a system as recited in claim 9 above, the claims 13 and 14 same in that the claims 7 and 8 already addressed above therefore claims 13 and 14 are also rejected for the same reasons given with respect to claims 7 and 8.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659) and in view of Stewart (US# 5,835,061) as applied to claim 9 above, and in further view of Raleigh et al. (US# 6,101,399).

Referring to claim 11, Meier in view of Flach et al. and in view of Stewart disclose a system as recited in claim 9, however, Meier in view of Flach et al. and in view of Stewart disclose did not explicitly disclose means for determining proximity includes quadratic optimization means.

In the same field of endeavor of wireless communication system, Raleigh et al. teach that means for determining proximity includes quadratic optimization means (column 3 lines 34 to 54; column 18 lines 1 to 19) in order to optimum transmit beam pattern.

One of ordinary skilled in the art recognizes the need to use the quadratic optimization means to determine the proximity of Raleigh et al. in multi-band access points of Meier in view of Flach et al. and in view of Stewart disclose because Flach et al. suggest it is desired to use ceiling-mounted transceiver to determine the location a remote telemeters (column 6 line 24 to 55) and Raleigh et al. teaches that determining proximity using the quadratic optimization means (column 3 lines 33 to 55; see Figure 1) in order to find the distance of mobiles object to the base station. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to use the quadratic optimization means to determine the proximity of Raleigh et al. in multi-band access points of Meier in view of Flach et al. and in view of Stewart with the motivation for doing so would have been to provide the distance of location tracking devices from wireless LAN access points in order to collects the data and resolves them into positional estimates.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659) and in view of Stewart (US# 5,835,061) as applied to claim 9 above, and in further view of Gamlyn et al. (US# 5,749,367).

Referring to claim 12, Meier in view of Flach et al. and in view of Stewart disclose a system as recited in claim 9, however, Meier in view of Flach et al. and in view of Stewart did not explicitly disclose means for determining proximity includes a neural network.

In the same field of endeavor of wireless communication system, Gamlyn et al. teach that means for determining proximity includes a neural network (column 1 lines 30 to 64) in order to obtain the monitor changes in the functioning or performance of a person.

One of ordinary skilled in the art recognizes the need to determine the proximity includes a neural network of Gamlyn et al. in determining the position by the network links of Meier in view of Flach et al. and in view of Stewart because Flach et al. suggest it is desired to provide information regarding the position of a remote telemeters in a wireless LAN (column 6 line 24 to 55) and Gamlyn et al. teaches that determining proximity includes a neural network (column 7 lines 26 to 48) in order to determine the vector is within or beyond a threshold range of the reference vectors. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to determine the proximity includes a neural network of Gamlyn et al. in determining the position by the network links of Meier in view of Flach et al. and in view of Stewart with the motivation for doing so would have been to provide an output a signal in order to initiate an event such as the generation of an alarm or the storage of data.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam V Nguyen whose telephone number is 571-272-3061. The examiner can normally be reached on Mon-Fri, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571- 272-7308. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nam Nguyen
August 31, 2006


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